

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF TENNESSEE  
NASHVILLE DIVISION

LIBERTARIAN PARTY OF TENNESSEE, )  
ANTHONY WALL, GREEN PARTY OF )  
TENNESSEE, KATHLEEN A. CULVER, )  
CONSTITUTION PARTY OF )  
TENNESSEE and JOAN CASTLE, )

Plaintiffs, )

v. )

MARK GOINS, Coordinator of )  
Elections for the State of Tennessee, and )  
TRE HARGETT, Secretary of State for the )  
State of Tennessee, )

Defendants. )

Case No. 3:08-0063  
Judge Haynes

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**DEFENDANTS' RESPONSE TO PLAINTIFFS' CONCISE STATEMENT  
OF ADDITIONAL MATERIAL FACTS**

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Defendants respond to Plaintiffs' statement of additional alleged material facts as follows:

56. The filing deadline for petitions for recognition of a new political party in the State of Tennessee is rather vague. Most states have a specific filing deadline instead of a deadline which must be determined by looking at various requirements for the doing of other actions. (Plaintiffs' Exhibit "4", Affidavit of Richard Winger of February 8, 2010, p. 3, ¶ 5).

**RESPONSE:** Defendants do not dispute that there is no statute establishing a specific deadline for the filing of petitions for recognition as a statewide political party.

57. In states of the United States in which there are official records of political party membership, Alaska is the only state in the United States in which the Libertarian Party has a membership of at least 2 ½ percent of the last total vote for governor. (Plaintiffs' Exhibit "4", Affidavit of Richard Winger of February 8, 2010, p.3, ¶ 8).

**RESPONSE:** Defendants submit that this statement is not a material fact relevant to the issues in this case. However, Defendants agree that this fact is undisputed for purposes of ruling on the motion for summary judgment only.

58. In states of the United States in which there are official records of political party memberships, Maine is the only state in the United States in which the Green Party has a membership of at least 2 ½ percent of the last total vote for governor. ((Plaintiffs' Exhibit "4", Affidavit of Richard Winger of February 8, 2010, p.3, ¶ 9).

**RESPONSE:** Defendants submit that this statement is not a material fact relevant to the issues in this case. However, Defendants agree that this fact is undisputed for purposes of ruling on the motion for summary judgment only.

59. In the states of the United States in which there are official records of political party membership, California and Nevada are the only states in the United States in which the Constitution Party (using the affiliated names of American Independent Party for California and Independent American Party for Nevada) has a membership of at least 2 ½ percent of the last total vote for governor. ((Plaintiffs' Exhibit "4", Affidavit of Richard Winger of February 8, 2010, p.3, ¶ 10).

**RESPONSE:** Defendants submit that this statement is not a material fact relevant to the issues in this case. However, Defendants agree that this fact is undisputed for purposes of ruling on the motion for summary judgment only.

60. Twenty-one states of the United States do not have voter registration by political party. Among these states are Ohio, Tennessee, Minnesota, North Dakota and Texas. ((Plaintiffs' Exhibit "4", Affidavit of Richard Winger of February 8, 2010, p.3, ¶ 13).

**RESPONSE:** Defendants submit that this statement is not a material fact relevant to the issues in this case. However, Defendants agree that this fact is undisputed for purposes of ruling on the motion for summary judgment only.

61. While the Libertarian Party of Tennessee has never attempted a petition drive for political party recognition because they found the law's requirements prohibitive, they have initiated efforts with the Tennessee Legislature to attempt to have the election laws regarding new party and minor party formation amended. However, these attempts to have the law changed have been unsuccessful so far. (Defendants' Exhibit "D", Deposition of Anthony Wall, p. 41, lines 5-23; Plaintiffs' Exhibit "5", Deposition of Anthony Wall, pp. 43-52).

**RESPONSE:** Defendants agree that it is undisputed that the Libertarian Party of Tennessee has never attempted to obtain recognition as a statewide political party through the petition process. Defendants submit that statement no. 61 is otherwise not a material fact relevant to the issues in this case. However, Defendants agree that it is undisputed for purposes of ruling on the motion for summary judgment only.

Respectfully submitted,

ROBERT E. COOPER, JR.  
Attorney General and Reporter

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies on the \_\_1st\_\_ day of March 2010, that a copy of the above document has been served upon the following persons by:

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